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7590
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EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT PAPER NUMBER

3623

DATE MAILED: 04/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

PAS

Office Action Summary

Application No.

09/659,428

Applicant(s)

VERMA ET AL.

Examiner

Susanna M. Diaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 6.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. Claims 1-10 have been cancelled by the Applicant (as per remarks in the Preliminary Amendment filed on January 31, 2002, paper no. 5, and confirmed during an interview, paper no. 6).

Claims 11-27 have been added by Preliminary Amendments filed on September 8, 2000, September 21, 2001, and January 31, 2002 (paper nos. 2, 3, and 5).

Claims 11-27 are herein presented for examination.

Declaration

2. The declaration is defective. A new declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The declaration is defective because it appears that neither of the inventors signed the declaration. Instead, "Sd--" is written on the signature lines of both inventors. Please submit a substitute declaration with both inventors' signatures.

Drawings

3. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81. Furthermore, the specification should be amended

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to make reference to the drawing(s) and all depicted reference numerals. No new matter may be introduced in the required drawing(s).

Specification

4. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

5. Please note that the Examiner has amended the continuing data (under 35 U.S.C. 120) to state that Application No. 09/144,789 is abandoned (instead of pending, as previously submitted by the Applicant in the amendment filed on September 8, 2000, paper no. 3).

Claim Objections

6. Claims 13, 15-17, and 23-27 are objected to because of the following informalities:

Claim 13, lines 8-9: The recitations of a "product description" and a "sales price" are each repeated twice in lines 8-9 of the claim

Claim 15, line 3, delete "a store local", insert "--a local store--

Claim 16, line 4, delete "a" before "credit card number"

Claim 16, line 7, delete "a" before "credit card number"

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Claim 17, lines 17-18: The recitations of a "product description" and a "sales price" are each repeated twice in lines 17-18 of the claim

Claim 17, line 36, delete "a store local", insert "--a local store--

Claim 17, line 42, delete "a" before "credit card number"

Claim 17, line 45, delete "a" before "credit card number"

Claim 23, line 6, insert "--at least one of a plurality of-- before "storage devices" in order to provide proper antecedent basis

Claim 23, line 7, insert "--at least one of a plurality of-- before "storage devices" in order to provide proper antecedent basis

Claim 23, line 10, insert "--at least one of a plurality of-- before "processors" in order to provide proper antecedent basis

Claim 23, line 11, insert "--at least one of a plurality of-- before "processors" in order to provide proper antecedent basis

Claim 24, line 1, insert "--at least one of a plurality of-- before "processors" in order to provide proper antecedent basis

Claim 24, line 3, insert "--at least one of a plurality of-- before "storage devices" in order to provide proper antecedent basis

Claim 25, line 1, insert "--at least one of a plurality of-- before "processors" in order to provide proper antecedent basis

Claim 26, line 1, insert "--at least one of a plurality of-- before "processors" in order to provide proper antecedent basis

Claim 27, line 1, insert "--at least one of a plurality of-- before "processors" in order to provide proper antecedent basis

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Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 11-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As explained in the last Office correspondence sent to the Applicant (paper no. 4), claims 21-27 have been renumbered as claims 11-17, respectively, under 37 CFR 1.126. Consequently, all claim dependencies need to be fixed as well. For examination purposes, the Examiner assumes the proper claim dependencies to be as follows:

Claim 12, line 2, delete "21", insert --11--

Claim 13, line 2, delete "21", insert --11--

Claim 14, line 2, delete "21", insert --11--

Claim 15, line 2, delete "21", insert --11--

Claim 16, line 2, delete "25", insert --15--

Claim 17, line 2, delete "21", insert --11--

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Claims 19-22 are dependent from claim 1, but claim 1 is cancelled; therefore, for examination purposes, claims 19-22 are assumed to be dependent from claim 18 instead.

Claims 24-27 are dependent from claim 6, but claim 6 is cancelled; therefore, for examination purposes, claims 24-27 are assumed to be dependent from claim 23 instead.

Claim 11 states that information is collected from "a plurality of merchants," yet dependent claim 12 recites, "collecting the information from sales circulars, advertised specials, sales promotions, merchants." First, it is not clear whether or not the information is collected from "sales circulars, advertised specials, sales promotions, **and** merchants" or "sales circulars, advertised specials, sales promotions, **or** merchants". Second, if collecting data from merchants is only one of several alternatives (as recited in claim 12), claim 12 seems to conflict with claim 11, which positively recites that the information is collected from a plurality of merchants. These same issues arise in claim 17 as well.

Claim 13 recites the limitation "an object" in line 14. This "object" seems to refer to the "product" recited in the previous line. Please clarify and correct, if appropriate.

Claim 17 recites the limitation "an object" in line 23. This "object" seems to refer to the "product" recited in the previous line. Please clarify and correct, if appropriate.

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Claim 13 recites the limitation "the buyer" in line 18. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, "the buyer" will be interpreted as "the prospective buyer."

Claim 14 recites the limitation "a unique address" in line 5. This "unique address" seems to refer to the "unique address" recited in line 3. Please clarify and correct (e.g., delete "a unique address," insert --the unique address-- in line 5), if appropriate.

Claim 16 recites the limitation "the purchase" in line 6. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, "the purchase" will be interpreted as "a purchase."

Claim 17 recites the limitation "the buyer" in line 27. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, "the buyer" will be interpreted as "the prospective buyer."

Claim 17 recites the limitation "a unique address" in line 33. This "unique address" seems to refer to the "unique address" recited in line 31. Please clarify and correct (e.g., delete "a unique address," insert --the unique address-- in line 33), if appropriate.

Claim 17 recites the limitation "the purchase" in line 44. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, "the purchase" will be interpreted as "a purchase."

Claim 20 recites the limitation "said store inventory" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, "said store inventory" will be interpreted as "a store inventory."

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Claim 21 recites the limitation "said merchant store" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, "said merchant store" will be interpreted as "said merchant stores."

Claim 22 recites that a prospective buyer is purchasing multiple products (i.e., "said products"); however, independent claim 18 seems to recite the comparison of multiple products. Therefore, it is not clear if the purchase of "said products" is intended to mean that the prospective buyer is purchasing all of the products compared to one another in claim 18. It seems more logical that a prospective buyer would only purchase a subset of the products being compared, based at least on price. Please clarify.

Claim 25 recites the limitation "said store inventory" in line 2. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, "said store inventory" will be interpreted as "a store inventory."

Claim 26 recites the limitation "said merchant store" in line 3. There is insufficient antecedent basis for this limitation in the claim. For examination purposes, "said merchant store" will be interpreted as "said merchant stores."

Claim 27 recites that a prospective buyer is purchasing multiple products (i.e., "said products"); however, independent claim 23 seems to recite the comparison of multiple products. Therefore, it is not clear if the purchase of "said products" is intended to mean that the prospective buyer is purchasing all of the products compared to one another in claim 23. It seems more logical that a prospective buyer would only purchase a subset of the products being compared, based at least on price. Please clarify.

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Appropriate clarification and/or correction is required.

In light of the numerous rejections under 35 U.S.C. 112, 2nd paragraph, the following art rejection reflects the Examiner's best interpretation of the claimed invention.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 11-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Ziff-Davis Signs Up 189 Advertisers for the Coming Launch of Its Computer Shopper NetBuyer Web Site" (herein referred to as Ziff-Davis) in view of "Service Merchandise Uses NetDynamics to Move Its Entire Catalog Onto the Internet" (herein referred to as NetDynamics).

Ziff-Davis discloses a method for presenting a price comparison to a prospective buyer comprising:

[Claim 11] collecting information from a plurality of merchants relating to data concerning products and respective price information (§ 3, 12);

storing the information into records of a database (§ 3, 12);

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sorting the information relative to products based on the database (¶ 3, 12);

presenting the information in a plurality of records to the prospective buyer (¶ 3, 12);

[Claim 12] collecting the information from sales circulars, advertised specials, sales promotions, merchants (¶ 3, 7, 12);

collecting information relating to merchant name, merchant address, product description, model number, regular price, sales price, coupons, rebates, colors, or sizes (¶ 3, 7, 12);

entering attributes into a search key (¶ 3, 12);

entering geographical region, postal code, town name, county name, state name, product name, product category, model number, product description, price, product features, or brand name into the search key (¶ 3, 12);

[Claim 13] entering attributes into a search key (¶ 3, 12);

sorting the database according to merchant name, product name or model number (¶ 3, 12);

entering data for merchants offering a specific product into the database, wherein the data includes merchant name, product description, sales price, product description, sales price, coupons or rebates (¶ 3, 6, 7, 12);

providing access to the database through a browser interface (¶ 3 -- "web-based").

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As per claim 11, Ziff-Davis does not explicitly teach that merchant products compared and presented to customers on the Internet can be ordered online and picked up from a local store; however, NetDynamics makes up for this deficiency. NetDynamics provides the following services through their affiliates:

Included with the expanded catalog are NetDynamics applications enabling customers to check to see if a product they want is available at their local Service Merchandise store. Customers will be able to reserve the item online before visiting the store to pick it up... Rinat explained that all of this is made possible because NetDynamics enables the development of Web applications that tie into extensive data sources. In the case of Service Merchandise, these data sources include product listings, price, and availability. NetDynamics enables Service Merchandise customers to access this information over the Internet and then to purchase it through a secure transaction. (¶¶ 6, 8)

Both Ziff-Davis and NetDynamics are concerned with providing a convenient Internet shopping experience to the customers; NetDynamics takes this concept one step further and fulfills many customers' need for immediate gratification (i.e., the ability to pick up a desired product from a local store). Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement the step of collecting information from a plurality of merchants relating to data concerning products in store locations and respective price information, wherein the prospective buyer is capable of visiting the store locations, with Ziff-Davis' Internet shopping system in order to reap the benefits of Ziff-Davis' product and price comparison features

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among multiple merchants while fulfilling many customers' need for immediate gratification (i.e., the ability to pick up a desired product from a local store).

Regarding claim 12, Ziff-Davis conveys the importance of allowing customers to search for products that meet the individual needs of each customer (¶ 3, 4); however, Ziff-Davis does not expressly disclose the sorting of its product database by price. The Examiner asserts that price is often a factor taken into account when customers shop for products that meet their needs; therefore, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to sort Ziff-Davis' product database according to price in order to allow customers to more quickly narrow down their product selections to a more reasonable set of products that are the most likely to fit their needs (including their economic needs).

As per claim 13, the Ziff-Davis-NetDynamics combination teaches the concept of comparing desired products from different merchants via the Internet, ordering products online, and then picking up the products at a local merchant (as discussed above). In order for such a system to be operational, a customer must specify his/her location so that stores truly local to the customer can be identified. The Examiner submits that the use of a state to identify one's location (thereby implying one's local region) is old and well-known in the art; therefore, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to request that a prospective buyer specify a state in which a desired product will be searched for and then pick-up, if available, as part of the Ziff-Davis-NetDynamics combination in order to allow a prospective buyer to

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quickly learn if desired products are available for pick-up locally (instead of forcing the prospective buyer to read through useless product inventory data from stores in remotely located states). Further, the notion of sorting a database by sales price was addressed above as well; therefore, the concept of presenting products in an ascending order based on sales price (as part of the Ziff-Davis-NetDynamics combination) would also have been obvious to one of ordinary skill in the art at the time of Applicant's invention in order to allow customers to more quickly narrow down their product selections to a more reasonable set of products that are the most likely to fit their needs (including their economic needs). Finally, as discussed above, the concept of sorting data provides a convenience to someone reviewing the sorted data; therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to allow a prospective buyer to sort product data as seen fit by the buyer (e.g., based on price, merchant name, etc.) in order to facilitate a quicker review of only the most pertinent products fitting the buyer's needs.

Regarding claim 14, Ziff-Davis does not explicitly disclose the use of a unique address corresponding to a geographical area-product combination; however, the Examiner asserts that the assignment of a unique web address corresponding to a particular geographical region is old and well-known in the art. This technique is helpful in reducing Internet traffic at a given web site. Therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to map the merchant

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and product data (of the Ziff-Davis-NetDynamics combination) to a unique address and present comparison data for a unique geographical area-product pair to the prospective buyer via this unique address in order to minimize Internet traffic build-up at a given web site. This will speed up each prospective buyer's Internet connection, thereby providing a more pleasant online shopping experience.

In reference to claim 15 and as discussed above, NetDynamics teaches the steps of checking inventory at a local store of a merchant upon request of a prospective buyer to determine availability of a chosen product and reserving the product at the local store for pickup after determining availability has been performed. Again, this shopping arrangement provides for the fulfillment of many customers' need for immediate gratification (i.e., the ability to pick up a desired product from a local store). Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement the steps of checking inventory at a local store of a merchant upon request of a prospective buyer to determine availability of a chosen product and reserving the product at the local store for pickup after determining availability has been performed with Ziff-Davis' Internet shopping system in order to reap the benefits of Ziff-Davis' product and price comparison features among multiple merchants while fulfilling many customers' need for immediate gratification (i.e., the ability to pick up a desired product from a local store).

Regarding claim 16, both Ziff-Davis and NetDynamics facilitate the payment of an ordered product via the Internet; however, neither reference

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expressly teaches payment through the use of either a registration token or a credit card number. The Examiner asserts that it is old and well-known in the art to make payments via the Internet using either a registration token or a credit card number; therefore, it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to incorporate the use of a registration token or a credit card number to order and pay for a product via the Internet (as part of the Ziff-Davis-NetDynamics combination) in order to facilitate convenient and secure Internet payments. Further, since the Ziff-Davis-NetDynamics combination teaches the online reservation of an item before picking it up, the ability to make payment via the Internet provides extra assurance to the merchant that the reserved item will be picked up by a customer. In other words, reserved items are confirmed sales as opposed to items merely put on hold that may or may not ever be picked up and paid for by the customer.

[Claim 17] Claim 17 recites limitations already addressed by the rejection of claims 11-16 above; therefore, the same rejection applies.

[Claims 18-22] Claims 18-22 recite limitations already addressed by the rejection of claims 11-16 above; therefore, the same rejection applies.

[Claims 23-27] Claims 23-27 recite limitations already addressed by the rejection of claims 11-16 above; therefore, the same rejection applies.

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Conclusion

11. Claims 11-27 stand rejected, with no subject matter being indicated as allowable.

12. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

"Cyberspace: the Last Frontier" -- Discloses Tower's intention to allow customers to use the Internet to check the inventory of desired merchandise at their local Tower stores, order merchandise online, and then pick up the orders in person at a local store (see ¶ 12, 13). Also discusses Anderson Consulting's "BargainFinder" software that scans the Internet to present customers with price comparisons for desired products.

"CNNfn.com and C2B Technologies Form Strategic Partnership to Create Unique Information and On-Line Shopping Hub" -- Discloses C2B's online shopping service that allows Internet customers to retrieve product and price information from online merchants, online classifieds, and local stores for comparison shopping purposes (see ¶ 4).


"C2B Unveils the First Comprehensive Online Shopping Platform for Consumers That Addresses Content, Commerce, Ease-of-Use" -- Discloses C2B's online shopping service that allows Internet customers to retrieve product and price information from online merchants, online classifieds, and local stores for comparison shopping purposes (see ¶ 12, 13).


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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for Official communications, (703) 746-7048 for Non-Official communications, and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900 or to the Customer Service Office on (703) 306-5631.

SMD 
April 13, 2002


KYLE J. CHOI
PRIMARY EXAMINER
Art Unit 2163